



THE CITY OF SAN DIEGO

## Redevelopment Agency's Report

DATE ISSUED: November 3, 2004 REPORT NO. RA-04-38

ATTENTION: Chair and Members of the Redevelopment Agency  
Docket of November 15, 2004

SUBJECT: Cooperation Agreement with San Diego State University Foundation for  
The Paseo Mixed-Use Project.

### SUMMARY

#### Issue(s) –

1. Should the Redevelopment Agency authorize the Executive Director to enter into a Cooperation Agreement with San Diego State University Foundation ("SDSUF") for the proposed The Paseo Project?
2. Should the Redevelopment Agency Amend the Fiscal Year 2005 Agency Budget for the College Community Redevelopment Project Area to accept an additional Developer Deposit, to increase appropriations, and authorize expenditures in an amount not to exceed \$445,525?
3. Should the Redevelopment Agency approve the Second Amendment to the Agreement for Special Legal Counsel services with Best Best & Krieger, LLP in the amount of \$100,000, with total maximum compensation not to exceed \$350,000?

#### Executive Director's Recommendation –

1. The Redevelopment Agency authorize the Executive Director to enter into a Cooperation Agreement with SDSUF for the proposed The Paseo Project and;
2. Amend the Fiscal Year 2005 Agency Budget for the College Community Redevelopment Project Area to accept an additional Developer Deposit, to increase appropriations, and authorize expenditures in an amount not to exceed \$445,525 and;
3. Approve the Second Amendment to the Agreement for Special Legal Counsel services with Best Best & Krieger, LLP ("BBK") in the amount of \$100,000, with total maximum compensation not to exceed \$350,000.

Fiscal Impact – The \$445,525 SDSUF deposit will fund continued staff time, outside consultants and attorney's fees, including the amendment to the agreement with Best, Best and Krieger.

## **BACKGROUND**

On March 4, 2003 The Redevelopment Agency of the City of San Diego (Agency) voted unanimously to enter into an Exclusive Negotiating Agreement (ENA) (Report No. RA-03-06) with the SDSUF for the proposed The Paseo Mixed-Use Project (The Paseo). Redevelopment Agency staff has continued to negotiate with the SDSUF with the intent to enter into a Disposition and Development Agreement (DDA). Agency staff anticipates bringing the DDA to the Agency board in March 2005. As the negotiations have continued to move forward, the Agency has the need to engage outside attorneys and consultants, including appraisers, relocation experts and environmental consultants. Funds for these costs as well as Agency staff time are required. This report outlines the proposed Cooperation Agreement with SDSUF.

In August 2000, the firm of BBK was selected as one of three firms to provide Special Legal Counsel ("Condemnation") services for the Redevelopment Agency. The other two firms selected were Daley & Heft, and the Law Offices of Donald Detisch. BBK has worked on several projects in the East Village Redevelopment District on behalf of the Redevelopment Agency. BBK was assigned the Renaissance Hotel Project and the acquisition of the property required for the project. In June 2004, the agreement with BBK was amended to increase the total compensation to \$250,000 for the Renaissance Hotel Project.

The City Attorney's Office has recently issued a Request for Qualifications for condemnation legal counsel services in order to select firms to be utilized for the next three-year period. Proposals have been received and are currently in the review process.

## **DISCUSSION**

The Cooperation Agreement ("Agreement") provides for SDSUF to fund the Agency's costs associated with the proposed The Paseo Project. Pursuant to the Agreement, SDSUF will immediately disburse \$140,625 to the Agency for costs associated with initial negotiations. These initial negotiations include outside consultants such as Overland Pacific & Cutler, relocation consultants; Lipman Stevens and Thene, appraisers for The Paseo; Tetra Tech, the environmental review team; and BBK.

The second disbursement of \$151,400 will be deposited by the SDSUF upon request by the Agency to fund a Redevelopment Plan Amendment, the continued commitment of BBK, as well as additional consultants Oppen and Varco, Polanco specialists; Keyser Marston & Associates, Inc. financial analysts; and Agency staff costs.

The third and final disbursement of \$153,500 will be deposited by the SDSUF, also at the request of the Agency. This deposit will cover continued costs of the team of outside consultants stated above and staff time devoted to negotiations.

The Agency agreements with the above stated consultants are also phased, with work on each phase contingent upon receipt of funds from the SDSUF. The total developer deposit under this Cooperation Agreement is \$445,525. The Fiscal Year 2005 Redevelopment Agency budget

requires amendment to allow the acceptance of the developer funds and to authorize the appropriations and expenditure of these funds for this purpose.

With the initiation of work related to The Paseo Project within the College Community Redevelopment Project Area, it is anticipated that the Agency's assistance with property acquisition, and outside condemnation counsel will be required. The City Attorney's Office has recommended BBK for this purpose. Based on the expected work related to The Paseo Project, it is recommended that a second amendment to the agreement in the amount of \$100,000 be authorized for this work. Funds for this purpose will be provided by the SDSU Foundation, as required under the Cooperation Agreement between the Agency and the Foundation.

#### SUMMARY

With approval of the Cooperation Agreement, Agency staff will continue negotiations with the SDSUF for The Paseo and accept up to \$445,525 in developer deposit.

#### ALTERNATIVE(S)

The Redevelopment Agency should not approve the Cooperation Agreement with the SDSUF, and discontinue negotiations with SDSUF.

Respectfully submitted,

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Debra Fischle-Faulk  
Deputy Executive Director,  
Redevelopment Agency

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Approved: Hank Cunningham  
Assistant Executive Director,  
Redevelopment Agency

Attachments: 1. Cooperation Agreement between the Redevelopment Agency of the City of San Diego and the San Diego State University Foundation.  
2. Second Amendment to Agreement between The Redevelopment Agency of the City of San Diego and the Law Offices of Best Best & Krieger  
3. Best Best & Krieger Scope of Services

**SDSU FOUNDATION CONTRIBUTION OF FUNDS –**  
**COOPERATION AGREEMENT**  
**RE: PASEO MIXED-USE PROJECT**

**First Phase to be deposited by SDSUF for continuing initial negotiations:**

\$ 10,250 for Overland, Pacific & Cutler (Relocation Consultants)  
\$ 72,525 for Lipman, Stevens & Thene (Appraisers)  
\$ 22,850 for Tetra Tech (EnviroReview)  
\$ 35,000 for Best, Best & Krieger (Acquisition Attorney)

\$140,625 subtotal

**Second Phase to be deposited by SDSUF for consultant and staff costs  
(upon Agency request):**

\$ 35,000 for Best, Best & Krieger  
\$ 15,000 for Oppen & Varco  
\$ 22,400 for Allsbrook (Acquisition specialist)  
\$ 12,000 for Keyser Marston  
\$ 42,000 for Agency staff costs (3/04/04 – 8/26/04)  
\$ 25,000 for Redevelopment Plan Amendment

\$151,400 subtotal

**Third Phase to be deposited by SDSUF for consultant and staff costs  
(upon Agency request):**

\$42,000 for Agency staff costs (8/26/04 – 1/31/05)  
\$23,000 for Oppen & Varco  
\$30,000 for Best, Best & Krieger  
\$20,000 for Allsbrook (Acquisition specialist)  
\$25,000 for Redevelopment Plan Amendment  
\$13,500 for Keyser Marston

\$153,300 subtotal

**Total \$445,525**

**EXHIBIT A**

